

## **AMENDMENTS TO THE DRAWINGS**

The attached replacement sheets of drawings include a request for deleting reference numeral "68" of Figure 8.

Attachment: Replacement sheets

### REMARKS

Claims 10-15 are pending in this application. Claim 10 has been amended. No new matter has been introduced.

The drawings have been objected to on the ground that they fail to include reference characters 20, 68 and 72. (Office Action at 2). In response, Applicant submits Replacement Drawings with reference numeral "68" deleted from Figure 8, for the Examiner's approval. In addition, paragraph [0056] of the specification has been amended to refer to reference numerals 20 and 72. No new matter has been added.

The Abstract of the Disclosure has been amended to contain less than 150 words. Paragraph [0053] of the specification has been also amended to correct the reference to Fig. 8.

Claims 10 and 13-15 are rejected under 35 U.S.C. §102(b) as being anticipated by WO 97/37595 to Pedlick et al. ("Pedlick"). This rejection is respectfully traversed.

The claimed invention relates to an implant for cross-pin anterior cruciate reconstruction surgery. As such, amended independent claim 10 recites an "implant for cross-pin anterior cruciate reconstruction surgery" comprising "a proximal end," "a tapered distal end" and "a transverse eye extending through the tapered distal end for receiving a flexible strand to draw said implant into an opening in bone." (Emphasis added). Amended independent claim 10 also recites "a smooth, cylindrical shaft disposed between said proximal end and said tapered distal end for supporting a graft in said opening."

Pedlick relates to a "suture anchor . . . having an annular displaced corner and abutment wall which act to seat the suture anchor firmly within a bore hole in substrate." (Abstract). According to Pedlick, "the suture anchor comprises a

substantially wedge-shaped body having a smaller distal end and a larger proximal end, means (330A) thereon for retaining a suture (500), and means thereon for releasable connection to an inserter shaft.” (Abstract).

Pedlick fails to anticipate the subject matter of claims 10 and 13-15. Pedlick does not disclose, teach or suggest an “implant for cross-pin anterior cruciate reconstruction surgery” comprising “a tapered distal end” and “a transverse eye extending through the tapered distal end for receiving a flexible strand to draw said implant into an opening in bone,” as amended independent claim 10 recites (emphasis added). Pedlick teaches that “the suture anchor can comprise a substantially wedge-shaped body having a smaller distal end and a larger proximal end, *the body defining a hole therethrough for retaining a suture*” (page 6, lines 16-18; emphasis added). In fact, Pedlick specifically emphasizes that “suture opening 5 is defined by the body of the suture anchor 1” (page 16, lines 12-13) to allow suture 10 to pass “through the opening 5” (page 17, line 2). Pedlick also illustrates first abutment end 2 and second abutment end 3 (which would arguably correspond to the “tapered distal end” of the claimed invention) without suture opening 5 provided therethrough. Opening 5 extends through the smooth, cylindrical untapered body of Pedlick, not through the tapered ends. Accordingly, Pedlick fails to disclose “a transverse eye extending through the tapered distal end,” as recited in amended claim 10 of the present application.

Claims 11 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Pedlick in view of U.S. 6,045,554 to Grooms et al. (“Grooms”). This rejection is respectfully traversed.

Grooms relates to an interference screw provided “by machining a fragment of autograft or allograft cortical bone from a donor or from a recipient’s amputated bone.” (Abstract). Grooms teaches that the interference screw “has a machined

pointed, rounded or flush end and an opposite machined end which mates with a drive means, and has advantages over conventional interference screws known in the art in that subsequent to implantation, no residual hardware that must later be removed remains at the implant site.” (Abstract).

The subject matter of claims 11 and 12 would not have been obvious over Pedlick in view of Grooms. Specifically, the Office Action fails to establish a *prima facie* case of obviousness. Courts have generally recognized that a showing of a *prima facie* case of obviousness necessitates three requirements: (i) some suggestion or motivation, either in the references themselves or in the knowledge of a person of ordinary skill in the art, to modify the reference or combine the reference teachings; (ii) a reasonable expectation of success; and (iii) the prior art references must teach or suggest all claim limitations. See e.g., In re Dembiczak, 175 F.3d 994 (Fed. Cir. 1999); In re Rouffet, 149 F.3d 1350, 1355 (Fed. Cir. 1998); Pro-Mold & Tool Co. v. Great Lakes Plastics, Inc., 75 F.3d 1568, 1573 (Fed. Cir. 1996).

Pedlick and Grooms, whether considered alone or in combination, fail to disclose, teach or suggest all limitations of amended independent claim 10. Neither Pedlick nor Grooms discloses, teaches or suggests an implant having a “tapered distal end” with a “transverse eye” as presently claimed. As discussed above, Pedlick specifically discloses that opening 5 is formed in “the body of the suture anchor,” and not in the first abutment end 2 or the second abutment end 3. Grooms is silent about “a transverse eye” or a “distal end” of an implant, much less about “a transverse eye located through the tapered distal end for receiving a flexible strand to draw said implant into an opening in bone,” as in the claimed invention. For at least these reasons, the Office Action fails to establish a *prima facie* case of obviousness, and withdrawal of the rejection of claims 11 and 12 is respectfully requested.

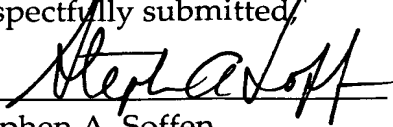
Application No. 10/665,480  
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Allowance of claims 10-15 is solicited.

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Respectfully submitted,

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